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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,295	07/01/2003	Steven M. Shei	DKE 9008.2	5573

321 7590 09/20/2004

SENNIGER POWERS LEAVITT AND ROEDEL
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ST LOUIS, MO 63102

EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,295

Applicant(s)

SHEI, STEVEN M.

Examiner

Joseph M Pelham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 52-73 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 10, 11, 14-21, 23, 27-31, 33, 34, 36, 39-48 and 74-83 is/are rejected.
- 7) ☒ Claim(s) 5, 12, 13, 22, 24-26, 32, 35, 37, 38 and 49-51 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/22/03, 1/5/04</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 102

Claims 1-4, 6, 10, 11, 14, 21, 28-31, 33, 34, 36, 37, 39-42, 46-48, and 74-83 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. 6710308 (US'308).

Referring to Figs. 2-4, and col. 3, line 1, through col. 4, line 29, at least, US'308 discloses an oven 102 having a plurality of thermally isolated compartments 104, 105, independently controlled, broiling heat sources in each which emit radiation downward into the cooking vessels placed into the compartments, which are inherently "trays" since such are universally utilized in such ovens, where each compartment may be programmed for a given cooking time, and convention heating means. The Examiner notes that the "duration of holding time" for ovens with timer control means ordinarily includes periods in which the heater is activated and deactivated, since maintenance of a set point temperature requires exactly such on-off power cycling (the "heating" and "non-heating" intervals recited in claim 4). The "holding temperature," recited in claim 6, is just the set point temperature; the initial heater activation, followed by cyclic activation and deactivation, as recited in claim 11, is exactly the conventional manner in which an oven achieves and then maintains a set point temperature. The oven is inherently capable of programming according to the type of food placed therein.

Claim Rejections - 35 USC § 103

Claims 15-17, 23, 27, 43, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'308 in view of U.S. Pat. 4374319 (US'319).

The claims differ from US'308 only in calling for convection ducting system with a flow path from below to above trays in the oven compartments, regarding the details of

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which US'308 is silent, Quartz, halogen, ceramic, or resistive embedded IR heater, a panel separating a heating element from the compartment.

Referring to Figs. 1-4 and col.4, lines 39-53, US'319 discloses a convection ducting system with a flow path from below to above trays in the oven compartment. It would have been obvious to adapt the convection system of US'3319 to the oven compartments of US'308 since US'319 discloses such to efficiently heat food items in an oven.

Claims 18-20, 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'308 in view of US'319, as applied to claims 15-17 above, and further in view of U.S. Pat. 4587946 (US'946).

The claims differ from the oven of US'308 in view of US'319 in calling for a reversible fan. US'946 discloses a reversible fan in a convection oven. It would have been obvious to adapt the reversible fan of US'946 to the oven of US'308 in view of US'319 to enhance heating uniformity.

Allowable Subject Matter

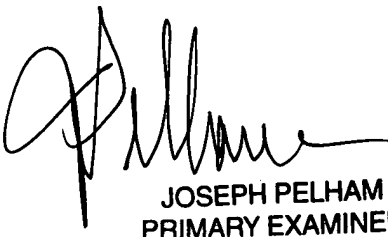
Claims 52-73 are allowed.

Claims 5, 7-9, 12, 13, 22, 24-26, 32, 35, 37, 38, and 49-51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M Pelham whose telephone number is 703-308-1709. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

9/16/04 
JOSEPH PELHAM
PRIMARY EXAMINER